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AUG 20 2021

U. S. DISTRICT COURT  
EASTERN DISTRICT OF MO  
ST. LOUIS**Affidavit Of Truth and Fact (form #3 )**case number  
4:21CR00259 RLW/SR  
W

**DURING THE HEARING HELD on 8/18/2021 judge Stephen R. Welby lied during the hearing, on the record, by stating he himself entered the plea of not guilty on my behalf during the initial arraignment hearing first held on 5/17/2021 after requesting him to ask the public defender he appointed me (without my voluntary consent) if Mr. Kevin B. Gau (Public Defender) has a voluntary lawful contract "in writing" consenting to him entering a plea of not guilty for me ,on my behalf . I was present during that zoom hearing and saw (with my own eyes) Kevin B. Gau the (public defender) verbally enter a involuntary plea of not guilty during that meeting ,so the statement made by judge STEPHEN R. WELBY during this hearing was a lie! I would also like to admit that the facts in the two conflicting indictments I submitted into evidence has only one Forman's signature on it were the signature should have been signed above the Forman's, and also were the date was suppose to be filled in by a person indicating the validity of it being a TRU BILL.THE INDITCEMENT left in my secured mailbox (by FBI agent JOEL D. BINGAMAN) was not signed or dated above the printed area of Forman's place of signature or redacted (blacked out )showing proof that it had been signed ) .The certified copy of the indictment in the clerks office (DOC 2 filed 04/21/21 page 1 of 6 page ID #:9) ,were the signature above the area marked Forman's on it should have been signed.**

**I (xaiviar brown ) also would like to point out that the testimony and written statements about alleged lose amounts (approximately 458.0000) in the investigators reports (see attached reports) made by by FBI. agent (Joel D. Bingaman ) in a interview with Michael Wiehe ,(Organized Retail Crime Investigator ) in a phone conversation between the two parties facts about the amount of retail lose, ID's printed, number of states the returns were supposedly conducted in, don't coincide with either of the two indictments submitted into evidence during my hearing to remove counsel held on 8/18/2021. NOTE: I will include the supporting documents as proof! The facts in this case against the ALLEGED DEFENDANT (XAVIER BROWN)which is not me (xaiviar brown ) is OBVIOUSLY is hearsay and fraudulent !**

**THE UNITED STATES SUPREME COURT HAS RULED , 98 U.S. 61. 25 L.Ed.93 UNITED STATES V. THROCKMORTON A 1878 LANDMARK DECISION FOUND THAT ONCE FRAUD IS FOUND , FRAUD "VITIATES" EVERYTHING:CONTRACTS,DOCUMENTS,COURT RULINGS -AND ELECTIONS !**

**FURTHER AFFIANT SAITH NOT.**

I declare under the penalty of bearing false witness before God and Men as recognized under the laws in and for The State of Missouri, the Laws of the United States of America and the Law of Nations, acting with sincere intent and full standing in law, do herewith certify and state that the foregoing contents are true, correct, complete, certain, admissible as evidence, and not intended to mislead anyone, and that xaiviar brown's executes this document in accordance with xaiviar brown's best knowledge and understanding without dishonor, without recourse; with All rights reserved, without prejudice.

As done this 19 day of August in the year 2021, under penalty of perjury under the laws of the United States of America.

L.S. Xaiviar Brown  
By: xaiviar brown

Duly sworn this \_\_\_\_\_ day of \_\_\_\_\_, 8/19/2021

STATE OF Missouri )  
 ) **JURAT**  
COUNTY OF \_\_\_\_\_ )

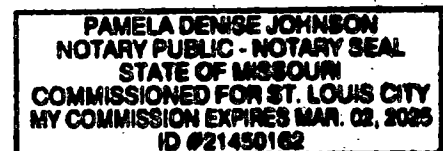
Before me the undersigned, a Notary acting within and for the County of Missouri and State of \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 8/19/2021, personally appeared and known to me - OR - proved to me on the basis of satisfactory evidence to be the person whose names is subscribed to the within instrument, to be the identical Man, xaiviar brown, who being duly sworn, declared the above to be true, correct, and not meant to mis-lead, to the best of his firsthand knowledge, understanding, and belief, by his free will and voluntary act and deed by his signature on the foregoing document, executed the within instrument.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 8/19/2021.

Pamela Denise Johnson

Notary Signature

Seal



AUG 20 2021

U. S. DISTRICT COURT  
EASTERN DISTRICT OF MO  
ST. LOUIS

Case number 4:21CR00259 RLW/SRW

## Xavier Brown

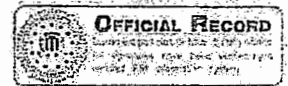
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- Returned over \$458,000 in merchandise to Home Depot locations without a receipt (this is the assumed amount of his thefts)
- Made more than 1,500 separate non-receipted returns. Often he does more than one return at the same store while he's there. So he has done 600 sets of returns at different stores on different dates.
- Xavier Brown has presented more than 1,400 different fraudulent identifications to conduct his refund transactions.
- Conducted non-receipted returns in 18 states, bringing back the store merchandise or the fraudulently obtained store credits to Missouri where it appears he is selling them to contractors/construction companies.



FD-1057 (Rev. 5-8-10)

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**FEDERAL BUREAU OF INVESTIGATION**  
**Electronic Communication**

**Title:** (U) Case Opening

**Date:** 05/11/2020

**From:** ST LOUIS

SL-6

**Contact:** Joel D. Bingaman, 314-589-2734

**Approved By:** SSA Joshua C. Morrill

**Drafted By:** Joel D. Bingaman

**Case ID #:** 196D-SL-3265695

(U) XAVIER BROWN;  
VICTIM - HOME DEPOT;  
OTHER MATTERS - CFC

**Synopsis:** (U) To request authority to open a new investigation.

**Enclosure(s):** Enclosed are the following items:

1. (U) Concurrence email.

**Details:**

Writer request the following investigation be opened and assigned to SA Joel D. Bingaman. SSA Jonathon R. Walthers concurred with the opening of below investigation via email on 05/08/2020.

Michael Wiehe, Organized Retail Crime Investigator, advised that The Home Depot is the victim of a retail fraud scheme that has resulted in the loss of approximately \$458,000 to date.

Wiehe alleged that XAVIER BROWN is conducting significant retail fraud at The Home Depot stores in the St. Louis region and at least 17 other

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Title: (U) Case Opening  
Re: 196D-SL-3265695, 05/11/2020

states. BROWN is a resident of St. Louis. The Home Depot has calculated the loss amount as approximately \$458,000 to date.

The fraud scheme involves BROWN making numerous legitimate low dollar purchases at a self-scan kiosk while not scanning several high dollar items before paying and leaving the store. BROWN then returns to the same store, or a nearby store, almost immediately and conducts a non-receipted return of the stolen items for store credit which is put on "gift card" style credit card that can only be used at The Home Depot. BROWN then sells the "gift card" to contractors or other individuals. BROWN has made over 1,500 such non-receipted returns over the past three years.

The Home Depot requires valid state issued identification in order to process a non-receipted return and all non-receipted returns are tracked by the driver's license number. Furthermore, The Home Depot will only allow so many non-receipted returns for every unique driver's license number. To facilitate the fraud scheme, BROWN presents a temporary Missouri driver's license which is a black and white printout provided by the Missouri Department of Revenue while the real driver's license is manufactured. To get around doing such a large amount of non-receipted returns, BROWN presents numerous temporary Missouri driver's licenses bearing his name but with different license numbers. It is not known if BROWN is creating his own temporary Missouri driver's licenses or altering his own legitimate temporary license by simply changing the license number. The Home Depot recovered one such temporary license that BROWN dropped in the parking lot.

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318E-SL-3265695 Serial 3

FD-302 (Rev. 5-8-10)

- 1 of 2 -

## FEDERAL BUREAU OF INVESTIGATION

Date of entry 05/26/2020

Michael Wiehe, Organized Retail Crime Investigator for The Home Depot, was interviewed via telephone at 224-517-5155. After being advised of the identity of the interviewing Agent and the nature of the interview, Wiehe provided the following information:

Wiehe advised that The Home Depot is the victim of a retail fraud scheme perpetrated by XAVIER BROWN, date of birth 6/20/1976. BROWN is conducting a retail fraud scheme at The Home Depot stores in the St. Louis region and at least seventeen other states. The Home Depot has calculated the loss amount as approximately \$458,000 to date.

The fraud scheme begins with BROWN making numerous legitimate low dollar purchases at a self-scan kiosk while intentionally not scanning several high dollar items before paying and leaving the store. BROWN then almost immediately returns to the same store, or a nearby store, and conducts a receipted return of the items legitimately purchased and a non-receipted return of the stolen items for store credit. The store credit is put on a "gift card" style credit card that can only be used at The Home Depot. BROWN has made over 1,500 such non-receipted returns over the past three years.

The Home Depot requires state issued identification in order to process a non-receipted return and all non-receipted returns are tracked by the driver's license number. Furthermore, The Home Depot will only allow so many non-receipted returns for every unique driver's license number. In order to conduct so many non-receipted returns, BROWN primarily presents

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Investigation on 05/15/2020 at St. Louis, Missouri, United States (Phone)File # 318E-SL-3265695Date dictated 05/19/2020by Joel D. Bingham

FD-302a (Rev. 5-8-10)

318E-SL-3265695 Serial 3

318E-SL-3265695

Continuation of FD-302 of (U) Interview of Michael Wiehe, On 05/15/2020, Page 2 of 2

temporary Missouri driver's licenses bearing his name, or a slight variation of his name, with different identification numbers. BROWN has also presented identification from fifteen other states. Wiehe provided an detailed list of identification numbers that BROWN has presented while conducting non-receipted returns. The list contained over one thousand unique state issued identification numbers. Additionally, The Home Depot recovered a temporary Missouri driver's license that BROWN dropped in the parking lot after conducting a non-receipted return.

Wiehe believes that BROWN sells the "gift cards" to contractors or other individuals primarily in the St. Louis region. Wiehe provided documentation on where, and by who if known, the "gift cards" BROWN fraudulently received were spent.

Wiehe does not suspect that BROWN is receiving assistance or guidance from any The Home Depot employees to perpetrate the fraud scheme.

All documentation provided by Wiehe will be memorialized in the 1A portion of the file.